



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103

RD

27 May 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),¹ MVS-2026-00274

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. MVS-2026-00274 Stream 1 (Feature 1) – Non-Jurisdictional, 800 Linear Feet
 - ii. MVS-2026-00274 Stream 2 (Feature 2) – Non-Jurisdictional, 850 Linear Feet
 - iii. MVS-2026-00274 Wetland 1 (Feature 3), - Non-Jurisdictional, 0.06 Acres

2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The Review Area is an approximately 26.6-acre area. The approximate geographic coordinates for the site are 38.586404, -90.148833. The Review Area is located in Sauget, St. Clair County, Illinois. There are multiple AJDs located near the Review Area, including MVS-2025-00690, MVS-2026-00167, and MVS-2026-00168.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Mississippi River is the nearest TNW. The Mississippi River has a navigation channel maintained by the Army Corps of Engineers.
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. All waters on site flow off-site to the south into a constructed detention basin.
6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

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resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A

b. The Territorial Seas (a)(1)(ii): N/A

c. Interstate Waters (a)(1)(iii): N/A

d. Impoundments (a)(2): N/A

e. Tributaries (a)(3): N/A

f. Adjacent Wetlands (a)(4): N/A

g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not "waters of the United States" even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁷ N/A

- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Feature 1 - Feature 1 is a first order, ephemeral tributary with an approximately 156 acres watershed. Feature 1 was assessed at the furthest downstream portion of the review area and was consistent throughout. Feature 1 lacks a defined bed and bank as well as an ordinary high-water mark.

Feature 1 was determined to be non-jurisdictional under an AJD associated with MVS-2025-00690. A site visit during the review of MVS-2025-00690 on 9 December 2025, showed the channel to be dry, with large portions of both the sides and bottom of the channel covered in thick vegetation. An APT ran for 9 December 2025 indicated the site visit during the review of MVS-2025-00690 was conducted under Normal Conditions during the Wet Season, with a Mild Drought Index.

A site visit conducted on 16 April 2026 showed the channel to be dry, with large portions of both the sides and bottom of the channel covered in thick vegetation. An APT ran for 16 April 2026 indicated the site visit for the review of MVS-2026-00274 was conducted under Normal Conditions during the Wet Season, with a Severe Drought Index.

With the relatively small watershed, lack of observed flow characteristics, and a defined bed and bank, the weight of evidence indicates Feature 1 does not flow continuously at least seasonally therefore does not meet the definition of a relatively permanent (a)(3) tributary.

Feature 2 - Feature 2 is a first order, ephemeral tributary with an approximately 156 acres watershed. Feature 2 was assessed at the furthest downstream portion of the review area and was consistent throughout. Feature 2 lacks a defined bed and bank as well as an ordinary high-water mark.

Feature 2 was determined to be non-jurisdictional under an AJD associated with MVS-2025-00690. A site visit during the review of MVS-2025-00690 on 9

⁷ 88 FR 3004 (January 18, 2023)

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A site visit conducted on 16 April 2026 showed the channel to be dry, with large portions of both the sides and bottom of the channel covered in thick vegetation. An APT ran for 16 April 2026 indicated the site visit for the review of MVS-2026-00274 was conducted under Normal Conditions during the Wet Season, with a Severe Drought Index.

With the relatively small watershed, lack of observed flow characteristics, and a defined bed and bank, the weight of evidence indicates Feature 2 does not flow continuously at least seasonally therefore does not meet the definition of a relatively permanent (a)(3) tributary.

Feature 3 – Feature 3 is a non-jurisdictional wetland feature which lacks a continuous surface connection (CSC) to a Relatively Permanent Water (RPW). Feature 3 is located at the intersection of Feature 1 and Feature 2. Feature 3 flows south offsite into a constructed linear detention, which connects to an open constructed detention basin. A site visit conducted on 26 May 2026 indicated the detention basin had no CSC to any further downstream features.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. MVS-2025-00690 AJD MFR
- b. Site Visit conducted 16 April 2026
- c. Site Visit conducted 26 May 2026

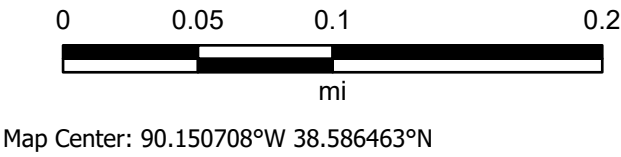
10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



County of St. Louis, Missouri Dept. of Conservation, MSDIS, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, MO911ServiceBoard, MDC, Microsoft, Vantor, Esri, HERE, Garmin, iPG

MVS-2026-00274 Review Area



Map Created by: Henry R. Heyer
Date: 5/26/2026
Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
Projection: Mercator Auxiliary Sphere



NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Village of Sauget; c/o Jay Dinkelmann		File Number: MVS-2026-00274	Date: May 28, 2026
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL WITHOUT PREJUDICE	C	
	PERMIT DENIAL WITH PREJUDICE	D	
X	APPROVED JURISDICTIONAL DETERMINATION	E	
	PRELIMINARY JURISDICTIONAL DETERMINATION	F	

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

U.S. Army Corps of Engineers
St. Louis District
Regulatory Division
1222 Spruce St.
St. Louis, MO. 63103
314-331-8575

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Administrative Appeals Review Officer
Mississippi Valley Division
U.S. Army Corps of Engineers
1400 Walnut Street
Vicksburg, MS 39181-0080
601-634-5820

SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

 Signature of appellant or agent.	Date:
Email address of appellant and/or agent:	Telephone number: